

**CONSUMER GRIEVANCE REDRESSAL FORUM
M.S.E.D.C.L., PUNE ZONE, PUNE**

Case No.39/2016

Date of Grievance : 28.11.2016

Date of Order : 23.01.2017

In the matter of recovery of arrears due to defective meter.

M/s. Chitale Bandhu Mithaiwale,
427/25, Gultekadi Industrial Estate,
Pune - 411037.

Complainant
(Herein after referred to as Consumer)

Versus

The Executive Engineer,
M.S.E.D.C.L.,
Parvati Division,
Pune.

Respondent
(Herein after referred to as Licensee)

Quorum

Chairperson
Member Secretary
Member

Mr. S.N.Shelke
Mrs.B.S.Savant
Mr. S.S.Pathak

Appearance

For Consumer

Mr.Rajesh Vasant Nawadkar ,
Mr.Ajir Shankarrao Mahadar,
(Representatives)

For Respondent

Mr.V.S.Nale,AEE,Swargate
Sub-division

- 1) The Consumer has filed present Grievance application under regulation no. 6.4 of the MERC (CGRF & E.O.) Regulations 2006.
- 2) Being aggrieved and dissatisfied by the order dated 13.11.2016 passed by IGRC Rastapeth Urban Circle, Pune, thereby rejecting the grievance, the consumer above named prefers this grievance application on the following amongst other grounds.

- 3) The papers containing the above grievance were sent by the Forum to the Executive Engineer, M.S.E.D.C.L., Parvati Dn., Pune vide letter no. EE/CGRF/PZ/Notice/39 of 2016/256 dtd.29.11.2016. Accordingly the Distribution Licensee i.e. MSEDCL filed its reply on 30.12.2016.
- 4) We heard both sides at length and gone through the contentions of the consumer and reply of the licensee and the documents placed on record by the parties. On its basis following factual aspects were disclosed.
 - i) Consumer namely M/s. Chitale Bandhu Mithaiwale, having consumer No.170015988285 connected on 19.06.1991 and categorized as LT -V (Ind.) above 27 HP having initial sanctioned load 20.50 HP.
 - ii) The sanctioned load of the consumer was enhanced to 63 HP in July-2009 and at that time meter was replaced.
 - iii) The Flying Squad of Licensee visited the premises of the consumer on 4.7.2016 & tested the metering equipment of the consumer with accucheck & observed that Y phase CT was missing & meter was found slow by 32.11%.
 - iv) The Licensee sealed the said meter in the presence of consumer representative by replacing another meter and defective meter was handed over to Flying Squad for further testing.
 - v) The Licensee tested the said meter at MSEDCL Lab & it was observed that Y phase CT secondary both terminals were loose & current was not passing through the meter. Therefore screws of the said meter were tightened in the presence of consumer representative & thereafter meter was again tested. At that time it was found that the error is 1.36% which is within limit.
 - vi) The Licensee retrieved MRI data of the consumer & on analysis of the said data it was found that Y Phase CT was missing for 54883 Hours and 37 minutes. According to Flying Squad the said error is from the date of installation & as such it was not reflected in tampered event.

- vii) The Licensee found that meter reading on 19.7.2016 i.e. upto the date of testing was 3,63,166 units & therefore unbilled units upto this date are 1,81,583 from the date of installation of the meter.
 - viii) The Licensee issued supplementary bill to the consumer in the month of Sept.2016 for Rs.16,01,048/- of said missing units and thereafter raised demand of said amount vide letter dated 16.11.2016.
 - ix) Consumer challenged the supplementary bill raised by the Licensee by filing complaint before IGRC, Rastapeth on 30.9.2016.
 - x) The IGRC Rastapeth rejected the grievance of the consumer directing to recover the said amount from the consumer vide impugned order dated 13.11.2016.
- 5) The consumer representative Mr.Mahadar submitted that the consumer has set up a manufacturing unit of sweets at Gultekadi Industrial Estate, Pune in the year 1991 & for that purpose taken electric supply on 19.6.1991 initially having sanctioned load 20.50 HP. Thereafter sanctioned load enhanced to 63 HP in the month of July 2009. The consumer has been regularly paying electricity bills since 1991. The power connection meter has been installed near the main gate of the consumer as per MSEDCL Rules & Regulation. The consumer has taken every precaution that nobody should intervene in the meter or tamper the meter. Mr.Mahadar further submitted the consumer has suddenly received bill for 1,81,583 units amounting to Rs.16,01,048/- in the month of Sept.2016 & Licensee is insisting to pay the said bill immediately. The ownership of metering equipment is of the Licensee and it is the responsibility of the Licensee to get periodical inspection of every meter and to issue correct bills to the consumers. The said supplementary bill is for the period from the date of installation to the date of inspection of the said meter i.e. for a longer period. The said recovery is a time barred.
- 6) Mr. Mahadar further submitted that current transformer (CT) is a part of the meter as per definition of the meter laid down under Regulation

No.2.1 of MERC (SOP) Regulations 2014. The distribution Licensee shall be responsible for the periodic testing & maintenance of all consumer meters as per Regulation 14.4.1 of MERC supply code Regulations, 2005. He further submits that in case of defective meter, recovery can be made for maximum period of 3 months only prior to the month of dispute & hence the Licensee be directed to issue revised bill only for the period of 3 months.

- 7) On the other hand Mr.Nale, the Additional Ex.Engineer, Swargate Sub-division submitted that the said consumer was connected on 19.6.1991 initially having sanctioned load of 20.50 HP. As per application of the consumer his load was enhanced to 63 HP in the month of July-2009 & at that time consumer's meter was replaced. Thereafter the Flying Squad of Licensee visited the premises of the consumer on 4.7.2016 & checked the metering equipment of the consumer on the site with accucheck. It was found that Y phase CT was missing. Thereafter the said meter was replaced & sealed in the presence of consumer. Thereafter the said meter was tested in the MSEDCL Lab in the presence of consumer representative. At that time it was found that the error was due to loose screws of Y phase CT secondary terminal & current through that phase was not passing to the meter. These screws were tightened in the presence of consumer representative & thereafter meter was checked. It was found that the error is 1.36% which is within limits. There was no fault in the meter but meter was slow by 32.11% due to Y phase CT missing.
- 8) Mr.Nale further submitted that the Licensee retrieved the MRI data of the said consumer. It was found that Y phase current failure was for 54853 Hours & 37 minutes and therefore the assessment was made from July-2009 to July 2016 for 3,63,166 units i.e. upto the date of testing & unbilled units found to be 1,81,583 for which supplementary bills of Rs.16,01,048/- was issued to the consumer. The consumer is liable to pay the amount of said supplementary bill.

- 9) According to the Licensee they carried inspection of the metering equipment of the consumer through Flying Squad on 4.7.2016. At that time the Licensee checked the metering equipment with accucheck & found that the meter was slow by 31.11% due to Y phase CT missing. The said meter was sealed in the presence of consumer representative. Thereafter it was tested in the MSEDL Lab on 19.7.2016 in the presence of consumer representative. At that time it was found that the Y phase CT secondary both terminals were loose & current was not passing to the meter. These screws were tightened in the presence of consumer's representative and then meter was tested. It was found that the meter error is only 1.36% which is within limit. According to Flying squad Y phase CT was missing due to lose screws and the said error is from the date of installation of the said meter. The Licensee retrieved MRI data of the said consumer. It was disclosed Y phase CT failure is for 54883 hours therefore the said error is from the date of installation is to the date of testing i.e. 19.7.2016 therefore unbilled units assessed to 1,81,583 amounting to Rs.16,01,048/- & accordingly supplementary bill was issued to the consumer in the month of Sept.2016.
- 10) The Licensee replaced the consumer meter in the month of July-2009 & thereafter Flying Squad checked the said meter in the month of July-2016. Therefore crucial question is whether the Licensee can recover amount of unbilled units for such a longer period. It is necessary to take into consideration relevant provisions of the Electricity laws.
- 11) Definition of meter is provided under Regulation No.2.1 (s) of MERC (Standards of Performance of Distribution Licensees, Period for Giving Supply & Determination of Compensation) Regulations, 2014. It reads as under:

2. Definitions:

2.1 In these regulations unless the context otherwise requires.

(s) Meter' means a set of integrating instruments used to measure and/or record and store the amount of electrical energy supplied or

the quantity of electrical energy contained in the supply, in a given time, which includes whole current meter and metering equipment, such as current transformer, capacitor voltage transformer or potential or voltage transformer with necessary wiring and accessories, communication systems used for Automatic Meter Reading (AMR) and also includes pre-payment meters.

- 12) Thus as per definition of the meter as referred to above meter includes whole current meter and metering equipments such as current transformer capacitor, voltage transformer or potential or voltage transformer with necessary wiring and accessories, communication systems used for Automatic Meter Reading (AMR) and also includes pre-payment meters. In the present case it was found that metering equipment was tested with accucheck on 04.07.2016 and found that Y Ph CT was showing zero current & meter was slow by 32.11%. The Licensee retrieved MRI data & on analysis the said data found that Y Phase CT was missing for 54883 hrs. Therefore the said error is from the date of installation to the date of testing of the meter. The Licensee checked the said meter in the MSEDCL Lab at that time it was found that the said error is due to loose screws of secondary Y Phase CT terminals of the said meter. As per above mentioned definition, CT is part & parcel of metering equipment.
- 13) It is the responsibility of the distribution Licensee to have periodic testing and maintenance of all the consumer meters & to issue correct bills to the consumer. Regulation 14.4 of MERC supply code Regulations,2005 reads as under :

14.4 Testing & Maintenance of Meter :

14.4.1. The Distribution Licensee shall be responsible for the periodic testing and maintenance of all consumer meters.

It is seen that the Licensee did not get testing of the consumer meter periodically but have inspected it after about 7 years. Therefore there is deficiency in service on the part of the Licensee.

- 14) Regulation No.15.4.1 of the MERC (Electricity Supply Code and other conditions of supply) Regulations, 2005 provides billing in the event of defective meters. It reads as under.

15.4 Billing in the Event of Defective Meters:

15.4.1 Subject to the provisions of Part-XII and Part XIV of the Act. in case of defective meter the amount of the consumer's bill shall be adjusted, for a maximum period of three months prior to the month in which the dispute has arisen, in accordance with the results of the test taken subject to furnishing the test report of the meter along with the assessed bill :

Provided that, in case of broken or damaged meter seal, the meter shall be tested for defectiveness or tampering. In case of defective meter, the assessment shall be carried out as per clause 14.4.1 above and, in case of tampering as per section 126 or section 135 of the Act, depending on the circumstances of each case.

Provided further that, in case the meter has stopped recording, the consumer will be maximum period of three months, based on the average metered consumption for twelve months immediately preceding the three months prior to the month in which the billing is contemplated.

- 15) The Licensee inspected the consumer meter after longer period. According to Flying Squad the said error is from the date of installation. Therefore the Licensee retrieved MRI data & assessed unbilled units to 181583 units amounted to Rs.16,01,048/- & issued supplementary bill for the said amount to the consumer & also issued demand letter of the said amount. As per Section 56 of the Electricity Act, 2003 the Licensee cannot recover a sum for more than two years. It is not the case of the Licensee that of tampering of meter or unauthorized use or any theft committed by the consumer. Therefore the present case does not come under section 126 or 135 of Electricity Act, 2003. However it is the case of Licensee that due to Y phase CT missing, meter recorded units less by 32.11%. Therefore the above mentioned fact clearly constitutes case under Regulation No. 15.4.1 of MERC supply code Regulations. The MERC supply code Regulation No.15.4.1 clearly speaks that in case of defective meter the amount of the consumers bill shall be adjusted for a maximum period of 3 months prior to the month in which dispute has arisen. In the

present case liability of the consumer is to be calculated only for 3 months prior to the date of inspection i.e. prior to 4.7.2016. Accordingly the claim of the Licensee for unbilled units of 181583 amounting to Rs.16,01,048/- needs to be set aside and it is required to be worked out a fresh making it limited only for 3 months as discussed above as per Regulation no.15.4.1 of supply Code.

Date : 23.01.2017

I agree,

Sd/-
S.S.Pathak
Member
CGRF:PZ:PUNE

Sd/-
S.N.Shelke
Chairperson
CGRF:PZ:PUNE

Member Secretary, (B.S. Savant)

I have gone through the above reasoning and my opinion in this matter is differing as below:

The Flying Squad was inspected the site & there after the meter was tested in the lab & it is seen that Y phase CT of meter was missing due to screw was not tightened. After tightening the screws the meter was tested at Lab & it was found that, it's error was within permissible limits & hence the meter was not faulty/defective.

Considering the above facts, and thereafter the data was retrieved through MRI & it is seen that the events logged on as Y phase current failure of the said meter is 54883 Hours & 37 Minutes i.e. the meter recorded consumption of two CTs which in aggregate was 66.66% of total energy supplied to the consumer & thus the consumer was under billed 33.33%.

In Case of M/s. Rototex Polyester & V/s. Administrator Department of Dadra & Nagar Haveli (UT) Electricity Department of Silvassa 7 ors., 2010 (4) BCR 456, cited supra Hon'ble High Court Bombay held that when consumer is under billed due to clerical mistake of calculation, bar of limitations cannot be raised.

Hence the propose recovery is correct amounting to Rs.16,01,048/- for the 181583 unbilled units for the period July-2009 to June-2015 & recoverable from the above mentioned consumers, as this is only clerical mistake of calculation. The necessary installments for payment to the consumers shall be given as per MSEDCL Rules & Regulations without interest & DPC."

Sd/-

B.S.Savant

Member/Secretary

CGRF:PZ: PUNE

Hence the order by majority

ORDER

1. Grievance of the consumer is hereby allowed with cost.
2. The demand raised by Licensee, quantifying dues to the tune of Rs.16,01,048/- for unbilled 181583 units vide supplementary bill and demand letter dated 16.11.2016 is hereby set aside.
3. The impugned order dated 13.11.2016 passed by IGRC, Rastapeth is hereby set aside.
4. The Licensee to issue revised bill making it limited only for three months prior to the date of inspection vide MERC Supply code Regulation No. 15.4.1.
5. The Licensee to report compliance within one month from the date of this order.

Delivered on: - 23.01.2017

Sd/-

S.S.Pathak

Member

CGRF:PZ: PUNE

Sd/-

S.N.Shelke

Chairperson

CGRF:PZ:PUNE

Note :- The consumer if not satisfied may filed representation against this order before the Hon.'ble Ombudsman within 60 days from the date of this order at the following address.

Office of the Ombudsman,

Maharashtra Electricity Regulatory Commission,606/608, Keshav Bldg., Bandra Kurla Complex, Bandra (E), Mumbai-51.